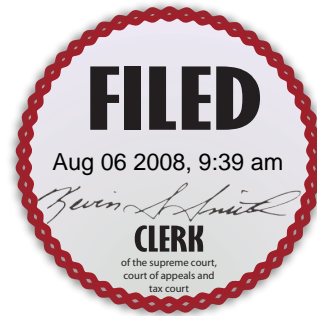


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

ANTONIO MANUEL,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0711-CR-974

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven R. Eichholtz, Judge
The Honorable Patrick Murphy, Commissioner
Cause No. 49G23-0705-FD-085182

August 6, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Antonio Manuel appeals his conviction for Possession of Cocaine,¹ a class D felony, arguing that the trial court erroneously admitted the drugs into evidence. Inasmuch as Manuel admitted that the cocaine belonged to him, we find any alleged error to be harmless and affirm the judgment of the trial court.

On May 14, 2007, Indianapolis Metropolitan Police Officer Craig Wildauer engaged in a “knock and talk” investigation, pursuant to which he approached residences known by police to be involved in illegal activities and sought to communicate with the occupants. Officer Wildauer approached a residence on LaSalle Street and observed Manuel sitting on the porch with some other people. As the officer approached the porch, he observed Manuel drop a one-dollar bill into a crevice in a pillar on the porch. Manuel became noticeably nervous when he observed Officer Wildauer approaching. When Officer Wildauer arrived on the porch, he asked Manuel if he lived there, and Manuel responded that he did not. The officer patted down Manuel and then searched the pillar area, eventually finding a dollar bill. Officer Wildauer observed an off-white substance folded into the dollar bill that later tested positive for cocaine. The officer placed Manuel under arrest for cocaine.

On May 15, 2007, the State charged Manuel with class D felony possession of cocaine. On July 11, 2007, Manuel filed a motion to suppress the drug evidence, arguing that it had been seized in violation of the Fourth Amendment to the United States Constitution. The trial court denied the motion. At the start of Manuel’s jury trial on September 25, 2007, Manuel renewed the motion to suppress and objected to the admission of the cocaine into

¹ Ind. Code § 35-48-4-6.

evidence; the trial court denied the renewed motion and overruled the objection. Manuel testified at the trial and admitted that he was on the porch on the night in question, that he had arrived at the residence just before Officer Wildauer approached, that he had purchased approximately \$5 of cocaine, that the cocaine was in the dollar bill in his hand, and that he got scared and dropped the bill when he noticed the officer approaching. Tr. p. 155-57. Ultimately, Manuel was found guilty of class D possession of cocaine and the trial court later sentenced him to two years imprisonment.

Manuel argues that the cocaine should not have been admitted into evidence because it was allegedly seized in violation of the Fourth Amendment to the United States Constitution. We need not reach this argument. A Fourth Amendment error is subject to a harmless error analysis. See Sallee v. State, 785 N.E.2d 645, 656-57 (Ind. Ct. App. 2003) (finding that eyewitness testimony, co-defendant's testimony regarding the defendant's culpable acts, and other corroborating evidence can render erroneous admission of evidence harmless). An erroneous admission of evidence is harmless where "its probable impact, in light of all the evidence in the case, is sufficiently minor so as not to affect the substantial rights of the party." Ind. Appellate Rule 66(A). Even if we admit solely for argument's sake that the drugs were seized in violation of the Fourth Amendment, Manuel's admissions that he had purchased the cocaine before the officer approached and that the cocaine belonged to him render any alleged error harmless. Consequently, this challenge must fail.

The judgment of the trial court is affirmed.

RILEY, J., concurs.

ROBB, J., concurs in result.